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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,959	10/16/2006	Jean-Louis Desjoyaux	1759.239	7391

23405 7590 09/03/2008
HESLIN ROTHENBERG FARLEY & MESTI PC
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EXAMINER

AHMAD, CHARISSA L

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

09/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,959

Applicant(s)

DESJOYAUX ET AL.

Examiner

Charissa Ahmad

Art Unit

3635

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
- Paper No(s)/Mail Date 10/16/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Lines 3-3 and 4-4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
 - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
 - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
 - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
 - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
 - (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
 - (g) BRIEF SUMMARY OF THE INVENTION.
 - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
 - (i) DETAILED DESCRIPTION OF THE INVENTION.
 - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
 - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
 - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).
4. The disclosure is objected to because of the following informalities: Line 24 on page 5 has the reference numeral 5 after "ground," which leads one to believe that the ground is being designated 5, whereas the drawings show the posts being 5. Please move this numeral behind the appropriate element or modify the drawings accordingly.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. **Claims 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Claim 4 recites the limitation, "flanges or load-bearing

fixtures,” which renders the claim indefinite. Claim 6 recites the same limitation in addition to, “cross-section...in the form of a ‘U’ or an ‘L,’” which also renders the claim indefinite.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 2, 4-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Queirel (US Patent 6,681,537 B2) in view of Rinke (US Patent 4,599,835).** [Claim 1] Queirel discloses a device comprising at least one element (32 and 17) shaped to act as a spout for casting concrete (Column 4, lines 59-67), the at least one element co-operating firstly with support means (34) and secondly with posts (20) (Figure 1). Queirel does not disclose steps. Rinke discloses swimming pool steps that attach to the walls of the pool. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to modify Queirel's device to include steps; as suggested and taught by Rinke for the purpose of allowing a means of ingress and egress from a swimming pool.

[Claim 2] Queirel discloses the element in communication with the posts which posts are hollow (Figure 1).

[Claims 4 and 6] Queirel does not disclose the support means comprising flanges. Rinke discloses an L-shaped flange (30) that attaches the steps to the pool wall. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to modify Queirel's

device to include a flange; as suggested and taught by Rinke for the purpose of securing the steps to the pool wall.

[**Claim 5**] Queirel discloses the at least one element having a squared transverse cross section, the horizontal wing of which could be supported against the outer surface of Rinke's steps (via the outer panel) (Figure 1). [**Claim 7**] There are a plurality of elements, the transverse ends of which have imbrication fixtures with an adjacent element (Figure 2 and Column 3, lines 42-56). [**Claim 8**] A horizontal wing (32) of each element has a profiled support edge (inside of panel wall) which would correspond to the profile of the outer surface of the steps (Figure 1) and a vertical wing (the panel) comprising two shoulders disposed angularly (two stepped surfaces of top of panel wall) (Figure 8). [**Claim 10**] After being connected to the steps, the at least one element would be in continuity with an upper anchorage provided by panels of the pool (Figure 1).

9. **Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Queirel (US Patent 6,681,537 B2) in view of Rinke (US Patent 4,599,835) and further in view of Desjoyaux et al. (US Patent 5,111,628).** Queirel in view of Rinke discloses the claimed invention as discussed above, but does not disclose positioning features. Desjoyaux et al. discloses positioning features (reinforcement bars) (Figure 6). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to modify Queirel's device in view of Rinke to include positioning features in the claimed location; as suggested and taught by Desjoyaux et al. for the purpose of reinforcing the concrete that would be poured in the element.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charissa Ahmad whose telephone number is (571) 270-5220. The examiner can normally be reached on Monday - Friday 7:30 am to 5 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

Charissa Ahmad
Examiner
Art Unit 3635

/Charissa Ahmad/
Examiner, Art Unit 3635

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